

REMARKS

In accordance with the foregoing, claims 24-27, 32 and 33 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 24-27, 29, and 31-34 are pending and under consideration. Reconsideration is respectfully requested.

REJECTION UNDER 35 U.S.C. § 102:

Claims 24-27, 29, and 31-34 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 6,085,176 to Woolston.

Claims 24-27 and 32 each recites "updat[e] at least one of the first records concerned with the unwanted merchandise specifiers" (e.g., claim 24, line 10). Claim 33 recites "consolidating selected records for unwanted merchandise, including related unwanted merchandise from different owners, and updating the selected records" at lines 6-7. These amendments are supported by page 40, line 18 to page 41, line 4 of the specification. Nothing has been cited in Woolston that teaches or suggests updating records in the manner recited in claims 24-27, 32 and 33. Instead, Woolston discussed various fields that may presented to the user at a "posting terminal" in column 15, lines 53-67, but the options described by Woolston did not include an "unwanted merchandise specifiers" and consequently Woolston is silent with respect to "updat[ing] at least one of the first records concerned with the unwanted merchandise specifiers" as recited in claims 24-27 and 32 and "consolidating selected records for unwanted merchandise, including related unwanted merchandise from different owners, and updating the selected records" as recited in claim 33.

In light of the above, it is submitted that claims 24-27, 32 and 33 are patentably distinguishable over Woolston.

On page 2 of the Office Action, numbered paragraph 2, claim 31 was rejected as being anticipated by Woolston, but the remaining pages of the Office Action fail to discuss how Woolston anticipates what is recited in claim 31. In particular, the Office Action fails to cite portions of Woolston that teach or suggest the following, as recited in claim 31:

receiving specifiers of various kinds transmitted from a customer,
the kinds of specifiers consisting of

the specifiers of a first kind, each specifying a first merchandise the customer possesses,

the specifiers of a second kind, each specifying a second merchandise the customer does not possess,

the specifiers of a third kind, each specifying a third merchandise the customer has already purchased,

the specifiers of a fourth kind, each specifying a fourth merchandise the customer does not need to possess any more that the customer still possesses, and

the specifiers of a fifth kind, each specifying a fifth merchandise the customer does not need to possess that the customer has purchased;

maintaining, based on the specifiers of the first through fifth kinds, first through fifth record types, concerning the first through fifth merchandise, respectively; and

removing identified merchandise from a selling-range of merchandise offered to the customer based on the first and third through fifth record types when offering the selling-range of merchandise to the customer.

(lines 4-20). Therefore, it is submitted that the Office Action has not presented *prima facie* evidence that claim 31 is anticipated by the teachings of Woolston. Withdrawal of the rejection is respectfully requested and the Examiner is respectfully requested to clarify the status of claim 31.

Claim 29 recites "determining, when receiving a purchase order for an identified merchandise transmitted from the customer via the network, whether the identified merchandise is in possession of the customer based on the record concerning the possessed merchandise" at lines 8-10. On page 3, line 10, the Office Action cited column 18, lines 30-47, as anticipating this recited feature of claim 29. In the proper context, Woolston at column 18, lines 30-47, states

It is understood that through the procedures of generating a unique code for each posted good, checking a unique code that identifies each posting terminal 700 against the legal owner entry in a posted good on the market maker computer 800 the database of for-sale goods 814 will be extremely reliable and accurate and assure that a locally sold goods that have already been sold on the market maker computer 800 will not be inadvertently sold twice The procedures, when used in conjunction with the rules and procedures imposed on the posting terminal user through a franchising or licensing legal framework assure that (1) when a

record of a good is found on the market maker computer 800 by a participant 900 or another retailer 902, it is in fact for-sale and is in the physical and legal possession of a "trusted" franchise and (2) that when a bona fide purchase price is tendered by a participant 900 or another retailer 902 the legal title to a good as represented by the record will transfer to the buyer with an immediate or nearly immediate finality to the transaction.

(column 18, lines 29-47). The cited portion of Woolston does not mention what occurs "when receiving a purchase order for an identified merchandise transmitted from the customer via the network", but rather describes how Woolston prevents merchandise from "inadvertently being sold twice". Specifically, Woolston "check[s] a unique code that identifies each posting terminal 700 against the legal owner entry" to determine whether the posted merchandise "is in fact for-sale and is in the physical and legal possession of a 'trusted' franchise", but is silent with respect to when the detection occurs or what triggers the detection mechanism (*i.e.* is the check performed in response to a user's action or automatically performed at set intervals). Moreover, by contrast, the customer is able to detect a double-selling of owned merchandise by the end of the method recited in claim 29. Therefore, between claim 29 and Woolston, the detection targets are clearly different.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

Serial No.: 09/960,300

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 3/13/08

By: David E. Moore
David E. Moore
Registration No. 59,047

1201 New York Avenue, N.W.
Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501